HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 19159 OF 2006

DATED: 15.9.2006

Between:

Aragala Srinivasulu

… Petitioner

and

Sri Talpagiri Ranganadha Swamy Temple and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.19159 OF 2006

ORAL ORDER:

Petitioner's father one Jalaiah (since deceased, in 2002) is claimed to have been the cultivating tenant of an extent of Ac.1.28 cents in Sy.No.144, Kodavaluru village and mandal, Nellore District, an agricultural land belonging to the 1st respondent-Temple, since 1962.

According to the petitioner, the family is dependent on such cultivation for livelihood and has no other source of income. It is the case of the petitioner that on the expiry of his father in 2002, the family continued in occupation of the property and continued to pay Maktha/rents to the 1st respondent-Temple, which the 1st respondent-Temple accepted. As the 1st respondent has now issued a notification for conduct of a public auction for grant of future leasehold rights for its agricultural properties including for the extent of Ac.1.28 cents in Sy.No.144, the petitioner is aggrieved and has filed this writ petition, contending that his rights are adversely affected without notice or opportunity or without termination of his lease.

None of the aforesaid contentions commend acceptance by this

court. It is not established by any legislative text or principle or authority that the leasehold rights to a Temple's agricultural property is a hereditary right and that such a right inheres in the petitioner after the death of his father Jalaiah, who is claimed to have been the cultivating tenant. The affidavit is also silent as to when the lease was entered into by Jalaiah; for what period and by what process. Lease of Endowment lands cannot be granted except by a process of public auction or on reasons recorded in writing by competent authorities that a process otherwise than by public auction is in the interests of Endowment. A formal written lease is also to be entered into, after approval of such lease by the competent authority. The affidavit is silent even whether a lease was even granted in favour of the petitioner's father late Jalaiah by the 1st respondent-Devasthanam, following the above mandated procedure under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and the relevant Statutory rules thereunder.

The mere fact that the respondents acquiesced in the petitioner's occupation of the 1st respondent-Temple's agricultural lands and by acceptance of the lease amounts, would not elevate the petitioner's occupation to the status of a lawful cultivating tenant. As the petitioner is not the cultivating tenant in the eye of law, there is no question of termination of a non-existing tenancy. The factual conduct of Endowment officials does not eclipse the legislative and statutory mandate. Long years ago, we have constituted ourselves into a Republic of reasons and laws and are not fallen today to be a

Republic of Endowment officers.

On the aforesaid analysis, the petitioner has no locus standi to resist the impugned auction notification. There are no merits in the writ petition. The writ petition is accordingly dismissed. The respondents are always at liberty to evict the petitioner, treating him as an encroacher, invoking the provisions of Section 83 of the Act. No costs.

GODA RAGHURAM, J

Date: 15.9.2006
Bo cvm